IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 36499 of 2004(T)

PETITIONER:

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1. DR.SATHU.T., CHOWWALLUR HOUSE,
   PAZHAYAPADY STOP, MAMUTHY, TRICHUR.

2. DR.ANISH ANTONY, MADECKAL HOUSE,
   ADOOPARAMBU, MOOVATTUPUZHA.

BY ADV.
SRI.V.G.ARUN

RESPONDENTS:

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1. KERALA AGRICULTURAL UNIVERSITY,
   MAIN CAMPUS, VELLANIKKARA, KAU P.O.,
   TRICHUR, REPRESENTED BY ITS REGISTRAR.

2. DR.RENUKA NAIR, VERTERINARY SURGEON,
   VERTERINARY DISPENSARY, ODAKALI,
   PERUMBAVOOR, ERNAKULAM DIST.

3. DR.VRINDA MENON, SENIOR RESEARCH FELLOW
   MEAT PLANT, MANNUTHY, TRICHUR.

4. DR.JAYESH, VERTINARY SURGEON,
   VERTINARY DISPENSARY, PERUMBAVOOR,
   ERNAKULAM DIST.

5. DR.DEEPA JOLLY,
   VERTERINARY SURGEON, LIVESTOCK AND MARINE
   PRODUCTS INSPECTION LABORATORY (LMP)
   ERNAKULAM.

6. DR.DEEPA SURENDRAN, TEACHING ASSISTANT
   DEPARTMENT OF VERTERINARY PUBLIC HEALTH
   COLLEGE OF VERTERINARY AND ANIMAL SCIENCE
   POOKOT, WAYANAD.

7. DR.GEETHA.R., VERTERINARY SURGEON,
   EXTENSION TRAINING CENTRE, MANNUTHY,
   TRICHUR.

8. DR.RADHA, PH.D. SCHOLAR, 2ND YEAR,
   DIVISION OF LIVESTOCK PRODUCT TECHNOLOGY,
   IVRI, IRATNAGAR, BAREILLY, UTTAR PRADESH.

BY ADV. SRI.N.D.PREMACHANDRAN, SC, AGRL.UNTY.
SRI.K.RAMAKUMAR
SMT.LATHA PRABHAKARAN
SRI.N.N.SUGUNAPALAN (SR.)
SRI.UNNIKRISHNAN V.
SRI.UNNIKRISHNAN V.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.36499/2004)

EXT.P1: TRUE COPY OF NOTIFICATION DT.20/9/2004.

EXT.P2: TRUE COPY OF PROVISIONAL DEGREE CERTIFICATE DT 20/8/2001.

EXT.P3: TRUE COPY OF RANK LIST.

EXT.P4: TRUE COPY OF NOTIFICATION DT. 30/8/72.

EXT.P5: DO. DT. 30/1/96.

EXT.P6: TRUE COPY OF PROCEEDINGS DT. 25/4/97.

RESPONDEMNTS' EXHIBITS:

EXT.R1(A): COPY OF CERTIFICATE ISSUED BY ICAR.

EXT.R2(A); TRUE COPY OF CERTIFICATE DT. 27/2/2001.

EXT.R2(B): DO. DT. 20/8/2001.

A.K. Basheer, J.

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W.P(C) No.36499 of 2004

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Dated this the 2nd day of August, 2007.

J U D G M E N T

Petitioners who had participated in the selection process for appointment to the post of Assistant Professor in the faculty of Livestock Product Technology in Veterinary and Animal Sciences College at Pookot in Wayanad District have filed this writ petition challenging Ext.P3 ranked list to the extent it pertains to placement of respondents 2 to 8 in the writ petition at rank Nos.1 to 7 in the said list. They further pray for a declaration that they are eligible and entitled to be selected and appointed to the post. There is a further prayer for issue of a writ of mandamus to the University to delete the names of respondents 2 to 8 from Ext.P3 rank list.

2.It is primarily contended by the petitioners that none of the respondents 2 to 8 possess requisite qualification viz., Master's Degree in Livestock Product Technology. Is the above contention tenable?

3. Relevant facts may be briefly noticed.

4. Kerala Agricultural University, respondent No.1 herein, had published Ext.P1 notification on September 20, 2004 inviting applications from eligible candidates to the post of Assistant Professor in various disciplines, including Livestock Product Technology, with which we are concerned in this writ petition. The essential qualifications were:

(a) B.V.Sc and Animal Husbandry recognized by Kerala Agricultural University.

(b) Masters Degree in the relevant subject recognized by the Kerala Agricultural University with a minimum of 55% marks .

(c) NET or equivalent.

Desirable : Doctorate in the relevant subject recognised by the Kerala Agricultural University.

As noticed already, the relevant subject in the case on hand is Livestock Product Technology. Petitioners contend that they have obtained Post Graduate Degree in Livestock Product Technology apart from other essential qualifications , whereas none of the respondents 2 to 8 do possess such qualification. It is the specific case of the petitioners that respondents 2 and 4 are Post Graduates in Meat Science while respondents 3, 5 and 6 have obtained their Masters' degree in Veterinary Public Health and respondents 7 and 8 are Post Graduates in Dairy Science. But the Selection Committee placed respondents 2 to 8 at serial Nos. 1 to 7 and petitioners were placed at serial Nos. 8 and 10 respectively. It is contended by the petitioners that only they could have been held to be eligible for selection and appointment, since they were the only candidates who had got the requisite qualification in the subject concerned. None of the respondents ought to have been included in the selected list at all. But paradoxically they have been

placed ahead of the petitioners.

5. In the counter affidavit filed by the University as well as the contesting respondents, it is pointed out that respondent No.2 has obtained her Master's Degree in Meat Science and Technology apart from NET qualification in Livestock Product Technology. Ext.R1(a) has been pressed into service to substantiate the above contention. The specific case of the respondents is that the above qualification would qualify respondent No.2 to be eligible for selection to the post. Further respondent No.2 was a Junior Research fellow in Animal Production Technology and Senior Research Fellow in Livestock Production Technology. As regards the Master's degree obtained by respondents 3 to 8 , it is the common case of the respondents that the Post Graduation in Meat Science and NET in Livestock Product Technology obtained by respondent No.4 and the Master's Degree and Post Graduation and the NET qualification of the other respondents in Veterinary Public Health and Life Science are all inter-related subjects. More importantly, the Selection Committee had considered the relative merit of the candidates as well as the subject requirement. The select list was prepared by the Selection Committee after due deliberations. Since the qualification for the post of Assistant Professor in Livestock Product Technology is not prescribed in the Statute, Meat Science, Veterinary Public Health and Dairy Science which come under the Livestock Product Technology Department can be considered as relevant subjects required for appointment as Assistant Professor in Livestock Product Technology, it is contended by the University.

6. It is pertinent to note that the candidates were interviewed by a

Selection Committee which consisted of subject expert also. Petitioners have not alleged any bias or favouritism against any of the members of the Selection Committee; nor have they got a case that the selection process was vitiated in any manner. It is true that petitioners have got a case that the interview which was originally scheduled to be held on December 1, 2004 had to be postponed to the next day, since Dr.A.M.Shanmugham, the subject expert from Madras did not turn up. In the place of Sri.Shanmugham the University had included Dr.P.G. Nair, a retired Dean in the Department of Genetics, in the Selection Committee. Petitioners have vaguely contended that the selection process held in the absence of the subject expert was therefore improper. But the above contention raised by the petitioners has been met by the University in the counter affidavit asserting that Dr.P.G. Nair who was the Dean of the college of Veterinary and Animal Science, Mannuthy was an eminent person in the field of Veterinary and Animal Husbandry and was by all means competent to interview the candidates to any discipline in the Veterinary Department. The Vice Chancellor had nominated Dr.P.G.Nair to ensure that the selection process was completed without any hitch, since Dr.Shanmugham had expressed his inability to attend the meeting. The action of the Vice Chancellor was ratified by the 403rd Executive Committee of the University held on December 10, 2004. In my view, the inclusion of Dr.P.G. Nair P.Hd, the retired Dean in the Selection Committee cannot therefore be held to be improper or irregular, particularly since nothing has been brought on record to show that Dr.Nair was not competent enough to be included in the Selection Committee as a subject expert,

as he bad been working in the college of Veterinary and Animal Science for decades. Further, the petitioners have not raised any specific objection with regard to the competence of Sri.P.G.Nair as a member of the Selection Committee.

7. It is true that the prescribed qualification is Master's Degree in the subject concerned viz., Livestock Product Technology. Petitioner No.1 has produced Ext.P2 to show that he is a Post Graduate in the said subject. Petitioner No.2 has not produced his Master's Degree certificate. As mentioned earlier, the candidates have to possess the basic degree in Veterinary and Animal Science, apart from Master's Degree in the subject concerned, to be eligible for appointment as Assistant Professor. University has raised a specific contention that subjects like Meat Science and Technology, Veterinary Public Health, Dairy Science etc. are all closely inter-related subjects. A perusal of Exts.P4 and P5 issued by the Government and the University respectively will undoubtedly substantiate the above contention. Ext.P4 will show that the subject Veterinary Public Health includes Meat Hygiene and Meat Technology as well. Ext.P6 order issued by the University will further show that apart from Masters Degree in the subject concerned, other essential and desirable qualifications as prescribed in the Statute, will also be applicable. With reference to Ext.P6 it is contended by the University that the qualification prescribed for the post of Assistant Professor in Livestock Products Technology had not yet been incorporated in the University Statute, though the qualifications were prescribed by the Academic Council. More importantly, as mentioned earlier, the Selection Committee had

considered the merit of the candidates who appeared before it. The qualifications possessed by the candidates were also evaluated by the Selection Committee. The select list was prepared by the Selection Committee after considering the relative merit of the candidates. This Court under Article 226 of the Constitution cannot substantiate the views of the experts in the field who had conducted the selection, especially in the absence of any specific allegation of bias, prejudice or favouritism.

8. There is yet another aspect of the matter. The selection process was completed in the year 2004. Though this writ petition was admitted in December 2004, no interim order of stay was granted. But it was made clear that appointment to the post of Assistant Professor in the Department would be provisional and subject to the result of the writ petition. The selected candidates who got appointment have been admittedly working for the last more than three years. In the absence of any patent illegality or irregularity in the selection process, I do not deem it just or proper to invoke the discretionary jurisdiction of this Court in this case.

Writ Petition fails. It is accordingly dismissed.

A.K. Basheer
Judge.

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